From:	Chris Howard
To:	_Regulatory Comments
Subject:	Comment on the Second Proposed Rule on Risk-Based Capital
Date:	Monday, April 27, 2015 4:46:05 PM

Dear Mr. Poliquin,

This is one in a series of 12 substantive blog posts addressing the second Risk-Based Capital proposal and published on CreditUnions.com over the past four weeks:

There is no problem to solve. RBC2 may be better than draft one, but that doesn't matter. There is no good reason to enact any proposal, better or not. No need for a regulation? It's a bad regulation. Period. No caveats or explanations.

Every regulation is a tax on resources. Compliance involves financial cost and opportunity cost. If a new rule doesn't make a situation meaningfully, measurably better, it's unacceptable. That's a basic axiom of good government. It's the rationale behind the Paperwork Reduction Act, sunset laws, cost-benefit analyses, and government reform efforts everywhere.

Put another way, unless the NCUA has a darned good reason for doing so, it has no business enacting any new rule, let alone one as complex, invasive, directive, and expensive as RBC. So, why?

The easy answer, offered at every turn, is that the law requires it.

Ahem. The NCUA regularly ignores legal mandates. At least this time, it would be for cause.

Last week, on April 1, the NCUA for the fourth-straight year again failed to deliver its legally mandated annual report to Congress and the president. This is a no-brainer — a universal bureaucratic exercise most other agencies manage to do in their sleep. If the NCUA can ignore this, why not RBC?

Another example is the NCUA's insistence on a two-tiered risk-based system. This is not called for by the law. Actually, in the judgment of board member Mark McWatters, it is almost certainly forbidden by the law.

Besides, there is no penalty for non-compliance with Dodd-Frank. Other financial services regulators are years behind in writing their implementing regulations. The most Congress can do is de-fund the laggards, but it rarely does so (and can't to the NCUA). Concerns about complexity, internal contradictions, and unintended consequences aren't criminal, they're good government.

So again, why? Why is the NCUA even pursuing this rule in the face of so many compelling reasons not to?

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